IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 10753 of 2007(E)

OS.692/2004 of MUNSIFF COURT, PARAVUR
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PETITIONERS:
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1. **HAJARA, AGED 33 YEARS, W/O. SULAIMAN, MIKKAL, EZHUKARA, THEKKUMBHAGAM MURI, EZHIKKARA VILLAGE.**

2. **SULAIMAN, AGED 51, S/O. KUNJUMUHAMMED, ILLIKKAL, EZHIKARA, THEKKUMBHAGAM MURI, EZHIKKARA VILLAGE.**

BY ADV. SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENT:

JOY, AGED 30 YEARS, S/O. VARGHESE, KALLUNGAL VEETTIL, VALIYAPALLAMTHURUTH MURI, PARAVUR VILLAGE, PARAVUR TALUK.

BY ADV. SRI.P.K.SAJEEV

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.10753/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORIGINAL SUIT IN O.S. 692/04.

EXT.P2:- COPY OF THE COMMON ORDER IN IA.921/06 & IA. NO.1030/06 IN OS. 327/06 DT..23.8.06.

EXT.P3:- COPY OF THE COMMON JUDGMENT IN CMA. NOS.80/96 & 81/06 IN IA.921/06 AND IA.NO.1030/06 IN OS. NO.327/06 DT. 28.2.07.

/TRUE COPY/

P.A. TO JUDGE

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M.N. KRISHNAN, J.

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W.P.C. NO. 10753 OF 2007

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Dated this the 9th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order passed by the learned Additional District Judge, North Paravoor in CMA Nos.80 and 81/06. By the said order the appellate court modified the order passed in I.A.921/06 and dismissed IA 1030/06 by allowing the CMA. It is these orders that are under challenge in the present writ petition.

2. A perusal of the order of the appellate court would reveal that the plaintiff is claiming right over the property by virtue of an assignment deed executed by one Pareekutty in favour of him. The said Pareekutty obtained the property from the defendant by virtue of a document in the year 1999. Now, a suit is filed to set aside that document on the ground of fraud, coercion, undue influence etc. and it is pending as O.S.692/04. The said suit is filed only after a period of five years. As things stand now, the case of the plaintiff stands established by his title deed. Therefore, the

appellate court has decided the matter in the correct perspective and the order under challenge does not call for any interference and at this stage the writ petitioners are not entitled to any relief. I make it very clear that while disposing of the suit, the Court below shall decide the case independently untrammeled by any observations made by me in this writ petition or in the judgment of the appellate Court.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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